



Rule and Interpretive/Policy Statement Review Checklist

This form is to be used when the current version of the rule or interpretive or policy statement has not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title): **WAC 458-20-195 Taxes, deductibility.**

Date last adopted/issued: **August 21, 2000.**

Reviewer: **Gayle Carlson**

Date review completed: **March 17, 2004**

Briefly explain the subject matter of the document(s):

Rule 195 explains the situations where certain taxes can be deducted from the gross amount reported for business and occupation tax, retail sales tax, and public utility tax. The rule lists federal, state and municipal taxes which can or can not be deducted.

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)



Please explain.

- **This rule assists readers in determining what taxes are deductible. It refers readers to appropriate federal codes, state and local statutes for additional information.**

3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that



		the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

- **The rule is written in a clear and easy to follow format. It does provide lists of other materials for readers to refer to for additional information. If all information referenced were included in Rule 195, the rule would be lengthy and difficult to locate applicable information.**

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statute(s) that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

- **RCW 82.32.300 and 82.01.060(2) authorize the Department to write and publish rules that are deemed necessary or desirable.**
- **At this time there are no reasons for recommending legislative changes.**

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

- **The Department has the authority to administer and collect the business and occupation, public utility, and retail sales taxes.**

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer “yes” only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

- **This rule is not a significant legislative rule requiring a cost benefit analysis.**



8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

- **This rule results in equitable treatment of sellers by providing guidance as to what taxes may be deductible from their gross income for tax purposes.**

9. LISTING OF DOCUMENTS REVIEWED: Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA) decisions, and Appeals Division decisions (WTDs) should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **To the extent the following apply to taxes charged or passed on to a seller's customer:**

- **RCW 82.04.070, "Gross proceeds of sales";**
- **RCW 82.04.080, "Gross income of the business";**
- **RCW 82.04.4285, Deductions--Motor vehicle fuel and special fuel taxes;**
- **RCW 82.08.010, Definitions (with respect to "selling price"); and**
- **RCW 82.16.010, Definitions (with respect to "gross income").**

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs):

- **None.**

Court Decisions:

- **None.**

Board of Tax Appeals Decisions (BTAs):

- **None.**

Appeal Division Decisions (WTDs):

- **Det. 98-115, 18 WTD 327 (1999), A fuel distributor can deduct, from its gross income, for business and occupation tax purposes, amount collected from customers for state aircraft fuel taxes.**
- **Det. 98-208, 19 WTD 332 (2000), Deductions allowed for water distributed through an "irrigation system," for irrigation purposes. Irrigation does not have to be for agricultural purposes.**
- **Det. 99-215R, 19 WTD 834 (2000), Taxes primarily imposed on a taxpayer are not deductible, as they are considered a cost of doing business.**



- **Det. 00-057, 19 WTD 986 (2000), Fuel transfer fees are not deductible for public utility tax purposes.**

Attorney General Opinions (AGOs):

- **None.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **Special Notice - What You Need to Know about Itemizing the B&O Tax, originally published September 5, 2000 and reissued April 2002.**
- **Special Notice - New State Enhanced 911 Tax on Cellular Telephone Service, published November 14, 2002.**

10. Review Recommendation:

- _____ **Amend**
- _____ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- X** **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- _____ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- **There is no reason to recommend taking any action on Rule 195 at this time. It is written clearly, and provides guidance to taxpayers as to what taxes may or may not be deductible from the measure of their gross income for business and occupation tax and public utility tax. It provides references to federal, state and local laws for the convenience of the reader.**
- **If the rule is revised in the future examples could be added. Examples based on WTDs would be helpful to readers.**

11. Manager action: Date: April 24, 2004

AL Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

- _____ 1
_____ 2
_____ 3
_____ 4